

### **REMARKS**

Claims 1-20 are now pending in the application. Of these pending claims, Claims 6, 11, 14, and 20 are withdrawn from consideration, Claims 1-4, 7-10, 12 and 15-19 are rejected, and Claims 5 and 13 are objected to. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **ELECTION//RESTRICTIONS**

Applicant confirms the March 4, 2004 election, without traverse, and respectfully requests the Examiner to proceed with the invention of Species A and Species b identified in Claims 1-5, 7-10, 12, 13 and 15-19. Applicant requests that the non-elected Claims be held in abeyance for possible rejoinder and/or further prosecution in future divisional and/or continuation applications.

### **SPECIFICATION**

The specification stands objected to for certain informalities. Specifically, the Abstract is objected to because it fails to mention the disclosed process. Applicant has amended the Abstract to include the process. In addition, the Brief Description of the Drawings is objected to because Fig. 3c is omitted therefrom. Applicant has amended the Brief Description of the Drawings to replace "3a-3b" with "3a-3c". Therefore, reconsideration and withdrawal of this objection are respectfully requested.

## **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-4, 7-10, 12 and 16-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Boucher et al. (U.S. Pat. No. 5,658,289). This rejection is respectfully traversed.

Independent Claim 1 recites "a wire locking mechanism associated with a spacer configured to hold the guide wire a predetermined distance from the tissue as the medical device is driven distally away from the wire locking mechanism." In contrast, the wire locking mechanism of Boucher et al. is only associated with the rotatable drive shaft of Claim 1. Thus, Boucher et al. does not disclose or suggest the claimed spacer and, particularly, a spacer configured to hold the guide wire a predetermined distance from the tissue as the medical device is driven distally away from the wire locking mechanism as recited in Claim 1. Accordingly, Applicant respectfully asserts that Applicant's invention as defined by independent Claim 1 is neither disclosed nor suggested by Boucher et al.

Independent Claim 9 recites "an axially movable rotatable shaft . . . and an axially stationary wire locking mechanism which retains the wire at a predetermined distance from the tissue during axial movement of the rotatable shaft." In contrast, the rotatable drive shaft of Boucher et al. is axially fixed with respect to the wire locking mechanism of Boucher et al. Thus, any axial movement of the rotatable shaft of Boucher et al. will cause corresponding axial movement of the wire locking mechanism. Similarly, maintaining the wire locking mechanism of Boucher et al. axially stationary will cause the rotatable drive shaft to likewise remain axially stationary. Accordingly, Applicant

respectfully asserts that Applicant's invention as defined by independent Claim 9 is neither disclosed nor suggested by Boucher et al.

Independent Claim 16 recites "grasping a point on a guide wire at a fixed distance from the biological tissue" and "maintaining the point on the guide wire at the fixed distance from the biological tissue while applying the force" to affix the medical device. In contrast, use of the Boucher et al. device results in the point at which the guide wire is grasped moving toward the biological tissue as the medical device is affixed. Thus, Boucher et al. does not disclose or suggest maintaining the grasping point on the guide wire at the fixed distance from the biological tissue while affixing the medical device as claimed. Accordingly, Applicant respectfully asserts that Applicant's invention as defined by independent Claim 16 is neither disclosed nor suggested by Boucher et al.

For at least these reasons, Applicant respectfully asserts that each of the independent claims herein are patentable. In addition, each of the remaining claims depends, directly or indirectly, from one of the independent claims discussed above. Accordingly, Applicant respectfully asserts that these claims are likewise patentable for at least the reasons discussed above with respect to the independent claim from which it depends.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Boucher et al. (U.S. Pat. No. 5,658,289) in view of Berner et al. (U.S. Pat. No. 4,124,026). This rejection is respectfully traversed.

Claim 15 depends directly from independent Claim 9. As discussed above with respect to Claim 9, Boucher et al. does not disclose or suggest an axially movable rotatable shaft in combination with an axially stationary wire locking mechanism that retains the wire at a predetermined distance from the tissue during axial movement of the rotatable shaft. Berner et al., likewise fails to disclose or suggest such a combination of features. Accordingly, Applicant respectfully asserts that dependent Claim 15 is likewise patentable for at least the reasons discussed above with respect to independent Claim 9.

#### **ALLOWABLE SUBJECT MATTER**

The Examiner states that Claims 5 and 13 would be allowable if rewritten in independent form. Accordingly, Applicant has amended each of Claims 5 and 13 to include the limitations of the base claim. Therefore, Claims 5 and 13 should now be in condition for allowance.

#### **WITHDRAWN CLAIMS**

The Examiner has withdrawn Claims 6, 11, 14 and 20 from consideration as being drawn to a non-elected invention. Each of these claims, however, depends directly from an independent claim that is generic. As discussed above, Applicant respectfully asserts that each of these generic independent claims is patentable. Consequently, consideration and allowance of each of these withdrawn claims is additionally respectfully requested.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By:   
Michael E. Hilton, Reg. No. 33,509

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MEH/smb/kq